

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: FERNANDO FRANCIS

Case No. 13-50685
Honorable Victoria A. Roberts

ORDER DENYING MOTION TO EXPUNGE

This matter is before the Court on Fernando Francis' Motion to Expunge. In 1979, Mr. Francis was convicted in federal court on one count of intent to sell, distribute or dispense narcotics. He seeks expungement of his record to enhance employment opportunities.

District courts do not have the power to expunge a record of a valid arrest and conviction solely for equitable considerations. *See United States v. Coloian*, 480 F.3d 47, 50 (1st Cir. 2007); *United States v. Meyer*, 439 F.3d 855, 862 (8th Cir. 2006); *United States v. Sumner*, 226 F.3d 1005, 1014 (9th Cir. 2000). The expungement of the record of a valid arrest and conviction usurps the powers that the framers of the Constitution allocated to Congress, the Executive, and the states. *Sumner*, 266 F.3d at 1014. A district court's ancillary jurisdiction is limited to expunging the record of an unlawful arrest or conviction, or to correcting a clerical error. *Id.*

No evidence is presented that Mr. Francis' conviction was unlawful. Accordingly, this Defendant may only seek expungement of a federal conviction through a Presidential Pardon under Article II, Section 2 of the United States Constitution. *See United States v. Noonan*, 906 F.2d 952, 953 (3d Cir. 1990).

Francis's Motion to Expunge is **DENIED**.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: May 13, 2013

The undersigned certifies that a copy of this document was served on the attorneys of record and Fernando Francis by electronic means or U.S. Mail on May 13, 2013.

S/Carol A. Pinegar
Deputy Clerk